



U.S. Department of Justice

Federal Bureau of Investigation  
Washington, D.C. 20535

May 1, 2019

**VIA FEDERAL EXPRESS**

Mr. Brett Kaufman  
American Civil Liberties Union Foundation  
18<sup>th</sup> Floor  
125 Broad Street  
New York, NY 10004

FOIPA Request No.: 1346529-000  
Subject: Pre-Publication Review Processes  
In Intelligence Community Agencies

*ACLU, New York v. DOJ*  
Civil Action No. 16-cv-01256

Dear Mr. Kaufman:

The enclosed documents were reviewed under the Freedom of Information/Privacy Acts (FOIPA), Title 5, United States Code, Section 552/552a. Below you will find checked boxes under applicable statutes for the exemptions asserted to protect information exempt from disclosure. The appropriate exemptions are noted on the processed pages next to redacted information. In addition, a deleted page information sheet was inserted to indicate where pages were withheld entirely pursuant to applicable exemptions. An Explanation of Exemptions is enclosed to further explain justification for withheld information.

**Section 552**

☒ (b)(1)

☐ (b)(2)

☒ (b)(3)

50 USC 3024(i)(1)

☐ (b)(4)

☒ (b)(5)

☒ (b)(6)

☒ (b)(7)(A)

☐ (b)(7)(B)

☒ (b)(7)(C)

☒ (b)(7)(D)

☒ (b)(7)(E)

☐ (b)(7)(F)

☐ (b)(8)

☐ (b)(9)

**Section 552a**

☐ (d)(5)

☐ (j)(2)

☐ (k)(1)

☐ (k)(2)

☐ (k)(3)

☐ (k)(4)

☐ (k)(5)

☐ (k)(6)

☐ (k)(7)

**853** pages were reviewed and **792** pages are being released.

Please see the paragraphs below for relevant information specific to your request and the enclosed FBI FOIPA Addendum for standard responses applicable to all requests.

- ☒ Documents were located which originated with, or contained information concerning, other Government Agencies [OGAs].
- ☐ This information has been referred to the OGA(s) for review and direct response to you.
- ☒ We are consulting with other agencies. The FBI will correspond with you regarding this information when the consultation is completed.

Please refer to the enclosed FBI FOIPA Addendum for additional standard responses applicable to your request. The **"Standard Responses to Requests"** section of the Addendum applies to all requests. If the subject of your request is a person, the **"Standard Responses to Requests for Individuals"** section also applies. The **"General Information"** section includes useful information about FBI records.

Please direct any further inquiries about this case to the Attorney representing the Government in this matter. Please use the FOIPA Request Number and/or Civil Action Number in all correspondence or inquiries concerning your request.



See additional information which follows.

Sincerely,



David M. Hardy  
Section Chief  
Record/Information  
Dissemination Section  
Information Management Division

Enclosures

In response to your Freedom of Information Act (FOIA) request, enclosed is a CD containing a processed copy of Bates Stamp Material PREPUB-6820 through PREPUB-7672.

The enclosed documents represent the thirteenth interim release of information responsive to your FOIA request.

**Pursuant to FOIA regulations, there is a \$15.00 duplication cost due upon receipt of this interim release. Additionally, please be advised we do not have record of receiving payment for the 9<sup>th</sup> Interim Release sent to you January 2, 2019 nor for the 10<sup>th</sup> Interim Release sent to you February 4, 2019 nor for the 11<sup>th</sup> Interim Release sent to you March 1, 2019, nor for the 12<sup>th</sup> Interim Release sent to you April 1, 2019, all via federal express. Therefore, we respectfully request that you go to [www.pay.gov](http://www.pay.gov) to make an electronic payment\* in the amount of \$75.00, or make a check or money order payable to the Federal Bureau of Investigation and mail it to the Work Process Unit, Record/Information Dissemination Section, Records Management Division, Federal Bureau of Investigation, 170 Marcel Drive, Winchester, VA 22602. Please include the FOIPA Request Number with your payment. Failure to pay the \$60.00 for these four releases within thirty (30) days from the date of this letter will close any pending FBI FOIPA requests from you. Nonpayment will also cause an automatic denial of any future FOIPA requests.**

*\*Pay.gov is a secure web-based application that accepts credit card and ACH payments online, and is hosted by the United States Department of Treasury, Financial Management Service. For frequent FOIPA requesters, it is recommended to create a Pay.gov account to retain an online history of payments made through Pay.gov and to retain specific information for future payments. To make an electronic payment, complete the FBI Freedom of Information Act and Privacy Act Form located on Pay.gov. Please note: if a refund is necessary, there is less processing time to refund a credit card payment than an ACH payment.*

## FBI FOIPA Addendum

As referenced in our letter, the FBI FOIPA Addendum includes information applicable to your request. Part 1 of the Addendum includes standard responses that apply to all requests. If you submitted a request regarding yourself or another person, Part 2 includes additional standard responses that apply to requests for individuals. If you have questions regarding the standard responses in Parts 1 or 2, visit the [www.fbi.gov/foia](http://www.fbi.gov/foia) website under “Contact Us.” Previously mentioned appeal and dispute resolution services are also available. Part 3 includes general information about FBI records that you may find useful.

### Part 1: Standard Responses to All Requests: See Below for all Requests

- (i) **5 U.S.C. § 552(c).** Congress excluded three categories of law enforcement and national security records from the requirements of the Freedom of Information Act (FOIA). See 5 U.S.C. § 552(c) (2006 & Supp. IV (2010)). FBI responses are limited to those records subject to the requirements of the FOIA. Additional information about the FBI and the FOIPA can be found on the [fbi.gov](http://fbi.gov) website.
- (ii) **National Security/Intelligence Records.** The FBI can neither confirm nor deny the existence of national security and foreign intelligence records pursuant to FOIA exemptions (b)(1) and (b)(3) and PA exemption (j)(2) as applicable to requests for records about individuals [5 U.S.C. §§ 552/552a (b)(1), (b)(3), and (j)(2); 50 U.S.C. § 3024(i)(1)]. The mere acknowledgment of the existence or nonexistence of such records is itself a classified fact protected by FOIA exemption (b)(1) and/or would reveal intelligence sources, methods, or activities protected by exemption (b)(3); 50 USC § 3024(i)(1). This is a standard response and should not be read to indicate that national security or foreign intelligence records do or do not exist.

### Part 2: Standard Responses to Requests for Individuals: See Below for all Requests for Individuals

- (i) **Requests for Records about any Individual—Watch Lists.** The FBI can neither confirm nor deny the existence of any individual's name on a watch list pursuant to FOIA exemption (b)(7)(E) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(7)(E), (j)(2)]. This is a standard response and should not be read to indicate that watch list records do or do not exist.
- (ii) **Requests for Records for Incarcerated Individuals.** The FBI can neither confirm nor deny the existence of records which could reasonably be expected to endanger the life or physical safety of any incarcerated individual pursuant to FOIA exemptions (b)(7)(E) and (b)(7)(F) and PA exemption (j)(2) [5 U.S.C. §§ 552/552a (b)(7)(E), (b)(7)(F), and (j)(2)]. This is a standard response and should not be read to indicate that such records do or do not exist.

### Part 3: General Information:

- (i) **Record Searches.** The Record/Information Dissemination Section (RIDS) searches for reasonably described records by searching those systems or locations where responsive records would reasonably be found. Most requests are satisfied by searching the Central Record System (CRS), an extensive system of records consisting of applicant, investigative, intelligence, personnel, administrative, and general files compiled and maintained by the FBI in the course of fulfilling its dual law enforcement and intelligence mission as well as the performance of agency administrative and personnel functions. The CRS spans the entire FBI organization and encompasses the records of FBI Headquarters (“FBIHQ”), FBI Field Offices, and FBI Legal Attaché Offices (“Legats”) worldwide. A CRS search includes Electronic Surveillance (ELSUR) records.
- (ii) **FBI Records**  
Founded in 1908, the FBI carries out a dual law enforcement and national security mission. As part of this dual mission, the FBI creates and maintains records on various subjects; however, the FBI does not maintain records on every person, subject, or entity.
- (iii) **Requests for Criminal History Records or “Rap Sheets.”** The Criminal Justice Information Services (CJIS) Division provides Identity History Summary Checks –often referred to as a criminal history record or “rap sheets.” These criminal history records are not the same as material in an investigative “FBI file.” An Identity History Summary Check is a listing of information taken from fingerprint cards and documents submitted to the FBI in connection with arrests, federal employment, naturalization, or military service. For a fee, individuals can request a copy of their Identity History Summary Check. Forms and directions can be accessed at [www.fbi.gov/about-us/cjis/identity-history-summary-checks](http://www.fbi.gov/about-us/cjis/identity-history-summary-checks). Additionally, requests can be submitted electronically at [www.edo.cjis.gov](http://www.edo.cjis.gov). For additional information, please contact CJIS directly at (304) 625-5590.
- (iv) **The National Name Check Program (NNCP).** The mission of NNCP is to analyze and report information in response to name check requests received from federal agencies, for the purpose of protecting the United States from foreign and domestic threats to national security. Please be advised that this is a service provided to other federal agencies. Private citizens cannot request a name check.

## **EXPLANATION OF EXEMPTIONS**

### **SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552**

- (b)(1) (A) specifically authorized under criteria established by an Executive order to be kept secret in the interest of national defense or foreign policy and (B) are in fact properly classified to such Executive order;
- (b)(2) related solely to the internal personnel rules and practices of an agency;
- (b)(3) specifically exempted from disclosure by statute (other than section 552b of this title), provided that such statute (A) requires that the matters be withheld from the public in such a manner as to leave no discretion on issue, or (B) establishes particular criteria for withholding or refers to particular types of matters to be withheld;
- (b)(4) trade secrets and commercial or financial information obtained from a person and privileged or confidential;
- (b)(5) inter-agency or intra-agency memorandums or letters which would not be available by law to a party other than an agency in litigation with the agency;
- (b)(6) personnel and medical files and similar files the disclosure of which would constitute a clearly unwarranted invasion of personal privacy;
- (b)(7) records or information compiled for law enforcement purposes, but only to the extent that the production of such law enforcement records or information ( A ) could reasonably be expected to interfere with enforcement proceedings, ( B ) would deprive a person of a right to a fair trial or an impartial adjudication, ( C ) could reasonably be expected to constitute an unwarranted invasion of personal privacy, ( D ) could reasonably be expected to disclose the identity of confidential source, including a State, local, or foreign agency or authority or any private institution which furnished information on a confidential basis, and, in the case of record or information compiled by a criminal law enforcement authority in the course of a criminal investigation, or by an agency conducting a lawful national security intelligence investigation, information furnished by a confidential source, ( E ) would disclose techniques and procedures for law enforcement investigations or prosecutions, or would disclose guidelines for law enforcement investigations or prosecutions if such disclosure could reasonably be expected to risk circumvention of the law, or ( F ) could reasonably be expected to endanger the life or physical safety of any individual;
- (b)(8) contained in or related to examination, operating, or condition reports prepared by, on behalf of, or for the use of an agency responsible for the regulation or supervision of financial institutions; or
- (b)(9) geological and geophysical information and data, including maps, concerning wells.

### **SUBSECTIONS OF TITLE 5, UNITED STATES CODE, SECTION 552a**

- (d)(5) information compiled in reasonable anticipation of a civil action proceeding;
- (j)(2) material reporting investigative efforts pertaining to the enforcement of criminal law including efforts to prevent, control, or reduce crime or apprehend criminals;
- (k)(1) information which is currently and properly classified pursuant to an Executive order in the interest of the national defense or foreign policy, for example, information involving intelligence sources or methods;
- (k)(2) investigatory material compiled for law enforcement purposes, other than criminal, which did not result in loss of a right, benefit or privilege under Federal programs, or which would identify a source who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(3) material maintained in connection with providing protective services to the President of the United States or any other individual pursuant to the authority of Title 18, United States Code, Section 3056;
- (k)(4) required by statute to be maintained and used solely as statistical records;
- (k)(5) investigatory material compiled solely for the purpose of determining suitability, eligibility, or qualifications for Federal civilian employment or for access to classified information, the disclosure of which would reveal the identity of the person who furnished information pursuant to a promise that his/her identity would be held in confidence;
- (k)(6) testing or examination material used to determine individual qualifications for appointment or promotion in Federal Government service the release of which would compromise the testing or examination process;
- (k)(7) material used to determine potential for promotion in the armed services, the disclosure of which would reveal the identity of the person who furnished the material pursuant to a promise that his/her identity would be held in confidence.